

Message Text

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15

ORIGIN EB-07

INFO OCT-01 EA-07 ISO-00 L-03 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 OMB-01 TRSE-00

SS-15 NSC-05 /048 R

DRAFTED BY EB/OA/AVP:SCKEITER:JO
APPROVED BY EB/TT:JWBILLER, ACTING
EB/OA/AVP:AJWHITE
EB/OA:MHSTYLES (DRAFT)
EB/AN:TROESCH
L/EB:FKWILLIS - DOT/OST:PLARSEN
CAB:ECORBOY (DRAFT)
DOT:DSCHROEDER (DRAFT)
FAA:NPLUMMER (DRAFT)
EA/ANP:HNELSON

----- 101375

R 300200Z JAN 76
FM SECSTATE WASHDC
TO AMEMBASSY CANBERRA
AMCONSUL MELBOURNE
INFO AMEMBASSY JAKARTA

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E.O. 11652: N/A

TAGS: EAIR, AS, US

SUBJECT: CIVAIR - INFORMAL DISCUSSION WITH AUSTRALIA
ON AVIATION USER CHARGES

REF : STATE 6094, 240193

JAKARTA FOR STYLES

1. FOLLOWING ARE USDEL'S INSTRUCTIONS FOR THE AVIATION
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USER CHARGE DISCUSSIONS RELATED TO ARTICLE 3 OF FAIR

COMPETITIVE PRACTICES ACT TO BE HELD BEGINNING FEB 2.
FYI: INTERNAL USG CONSIDERATION OF LEGAL RAMIFICATIONS
IS NOT YET COMPLETE. END FYI.

2. BASIS OF U.S. POSITION IS SECRETARY OF TRANSPORTATION
COLEMAN'S FINDING THAT AUSTRALIAN CHARGES ARE DISCRIMI-
NATORY. COLEMAN CITED TWO INSTANCES OF DISCRIMINATION,
NEITHER OF THEM JUSTIFIED BY COST DIFFERENCES:

A. "AIR NAVIGATION" CHARGES IMPOSED UPON INTERNATIONAL
FLIGHTS ARE DETERMINED USING A FIXED FLIGHT FACTOR OF
8, WHEREAS DOMESTIC FLIGHTS ARE DETERMINED USING A
VARIABLE FACTOR, THE EXACT NUMBER BEING DETERMINED ON
THE BASIS OF DISTANCE FLOWN IN AUSTRALIAN AIRSPACE. AS

A RESULT, INTERNATIONAL FLIGHTS ARE FREQUENTLY CHARGED
MORE THAN DOMESTIC FLIGHTS FOR IDENTICAL SERVICES OVER
IDENTICAL DISTANCES.

B. TERMINAL RENTS FOR INTERNATIONAL CARRIERS AT SYDNEY
INTERNATIONAL AIRPORT ARE BASED ON A MISALLOCATION OF
EXPENSES WHICH FAVORS DOMESTIC CARRIERS.

3. FAIR COMPETITIVE PRACTICES ACT PROVIDES FOR IMPOSITION
OF COMPENSATORY CHARGES IN CASES OF DISCRIMINATION OR
EXCESSIVE USER CHARGES.

4. SIZE OF COMPENSATORY CHARGES APPROPRIATE TO AUSTRALIAN
FINDING HAS NOT YET BEEN DETERMINED. COLEMAN LETTER
DOES, HOWEVER, ESTIMATE LOSS TO PAN AM RESULTING FROM
DISCRIMINATORY NAVIGATION CHARGES ALONE AT 483,000
DOLLARS ANNUALLY.

5. WHILE SPECIFICS OF COLEMAN LETTER SHOULD BE PRINCIPAL
POINT OF DISCUSSION, DELEGATION MAY FIND IT USEFUL TO
RAISE OTHER ASPECTS OF AUSTRALIAN USER CHARGES, IN
PARTICULAR THEIR UNUSUALLY HIGH LEVEL WHEN COMPARED
WITH CHARGES ELSEWHERE IN WORLD AND THE FACT AUSTRALIAN
CHARGES ARE RISING VERY SHARPLY, RATHER THAN "GRADUALLY"
IN ACCORDANCE WITH ICAO PRINCIPLES.

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6. IF AUSTRALIANS ARGUE THAT COMPENSATORY CHARGES ARE
CONTRARY TO BILATERAL AND CHICAGO CONVENTION, DELEGATION
SHOULD POINT OUT THAT IN U.S. VIEW IMPORTANT THING IS
THAT THERE IS INEQUITY RESULTING FROM AUSTRALIAN CHARGES,
AND THAT INEQUITY SHOULD BE REMOVED AT ITS SOURCE. ADD
THAT CHICAGO AND THE BILATERAL DO NOT, IN OUR OPINION,
REQUIRE US TO ACCEPT DISCRIMINATORY CHARGES ON OUR

CARRIERS. FYI: AUSTRALIANS MAY ARGUE THAT CHICAGO CONVENTION AUTHORIZES DISCRIMINATION BETWEEN DOMESTIC AND INTERNATIONAL FLIGHTS. WE DO NOT BELIEVE THE POINT SHOULD BE ELEVATED TO FORMAL STATEMENT OF POSITIONS AT THIS TIME, BUT YOU MAY INDICATE THAT USG WILL CONSIDER POINT FURTHER. END FYI.

7. USDEL SHOULD NOTE THAT U.S. LEGISLATION REQUIRES USG TO TAKE PROMPT ACTION TO ELIMINATE DISCRIMINATION OR, FAILING THAT, TO IMPOSE CHARGES. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INSTRUCTIONS, DISCRIMINATION, NEGOTIATIONS, AIRPORT FEES, AVIATION AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 JAN 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: morefirh
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE023297
Document Source: CORE
Document Unique ID: 00
Drafter: SCKEITER:JO
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D760035-1156
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t1976013/aaaaaciq.tel
Line Count: 125
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 6094
Review Action: RELEASED, APPROVED
Review Authority: morefirh
Review Comment: n/a
Review Content Flags:
Review Date: 26 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 MAR 2004 by CollinP0>; APPROVED <17 MAY 2004 by morefirh>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CIVAIR - INFORMAL DISCUSSION WITH AUSTRALIA ON AVIATION USER CHARGES
TAGS: EAIR, AS, US
To: CANBERRA MELBOURNE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006